

PRISON ANALYSIS SPECIAL SESSION - II

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~~PRISON ANALYSIS~~
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PRISON ANALYSIS
SPECIAL SESSION II - 1983 BIENNium

Presented to the Forty-Seventh Legislature

Submitted by
The Office of the Legislative Fiscal Analyst
Helena, Montana

June 1982



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/449-2986

JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

June, 1982

Members of the Forty-Seventh Legislature
Members of the Legislative Finance Committee

As required in 5-12-302, MCA, your fiscal analyst's staff has prepared an independent review of the executive budget. The purpose of this report is to explain the major policy implications of the executive budget. The Legislative Finance Committee, in directing the staff to conduct the analysis, felt an independent review of the executive's main fiscal proposal would offer a range of policy options not otherwise available.

I hope you find the prison analysis and background material useful in your deliberations.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judy Rippingale".

Judy Rippingale
Legislative Fiscal Analyst

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We wish to acknowledge the legal assistance of Lee Heiman from the Legislative Council staff in writing the legal review on double-bunking.

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INTRODUCTION TO THE PRISON ANALYSIS

The purpose of our analysis is to present the issues in the executive budget in a clear and concise manner. This is to help legislators obtain a fiscal understanding of each issue before they must make a final decision. No attempt is made to prioritize proposed budget expansions.

In addition to financial analysis, background material for which we have received considerable legislative interest has been included. There are five informational sections: 1) Prison Population--Historical and Projected; 2) Good-Time Policies; 3) Inmate Classification; 4) Legal Review of Double-Bunking; and 5) Annual Operating Costs--Other Prison Options.

SUMMARY OF EXECUTIVE BUDGET

The executive is requesting a new prison facility to handle 120 maximum security inmates, expand community corrections for 79 minimum security inmates, and improve the present state prison to house 673 inmates. Increased annual operating costs before considering inflation are \$1,880,110. Building and major improvement will cost \$10,607,880.

The executive fiscal 1983 budget proposal is to spend \$12,413,607 general fund for the following items:

Prison Operations	\$ 1,022,453
Prison Industries	97,500
Community Corrections	669,376
Board of Pardons	<u>16,398</u>
Total Operational Costs	\$ 1,805,727 =====
Kitchen Expansion	\$ 205,000
Water and Sewer Upgrades	400,000
Security Improvements	397,100
Maximum Security Complex	<u>9,605,780</u>
Total Long-Range Requests	\$10,607,880 =====

PRISON POPULATION PROJECTIONS

The executive has projected prison populations for years 1983 to 1990. The projections include a most likely population with an error allowance of plus or minus 40. These estimates are shown in Table 1.

Table 1
Department of Institutions
Population Projections 1983 - 1990

<u>Calendar Year</u>	<u>Projected Population</u>	<u>--Error Allowance¹--</u>	
		<u>Minus 40</u>	<u>Plus 40</u>
1982	900	874	926
1983	929	889	969
1984	926	886	966
1985	931	891	971
1986	925	885	965
1987	913	873	953
1988	898	858	938
1989	882	842	922
1990	865	825	905

¹1982 allows a 26 error rate rather than 40.

The prison population was 819 on June 10, 1982. Through May, the average daily prison population for fiscal 1982 has been 819. Table 2 shows the June 10, 1982 prison population in relation to the projected populations for 1983, 1984 and 1985.

Table 2
Prison Population as of June 10, 1982
Versus Projected Populations for 1982 - 1985

<u>Period</u>	-----Population-----	
	<u>Actual</u>	<u>Low Range</u>
June 10, 1982 - Calendar Year 1982	819 ¹	874
Calendar Year 1983		889
Calendar Year 1984		886
Calendar Year 1985		891

¹ Includes 27 not physically present; 792 were physically present.

Prison population projections are based on the following formula:

1. New prisoners will be added at the rate of 37.51 for every 10,000 males in Montana whose ages are 18 to 34.
2. The aggregate length of stay for each prisoner will be 24 months.

Male Population

New prisoners will be added at the rate of 37.51 for every 10,000 males in Montana whose ages are 18 to 34. The Department of Administration's population projections for males aged 18 to 34 are shown in Table 3. As the population peaks in 1984, the prison population project will begin to show a decline in subsequent years.

Table 3
Department of Administration's
Population Projections for Males Aged 18-34
1982 - 1990

<u>Calendar Year</u>	<u>Males Aged 18-34</u>
1982	122,352
1983	123,461
1984	123,994
1985	123,761
1986	122,589
1987	120,713
1988	118,641
1989	116,711
1990	114,644

Aggregate Length of Stay (ALS)

The aggregate length of stay has been increasing. The rate of increase has slowed considerably since 1978. Table 4 shows that the average length of stay was 23.1 months in 1978 and is presently 22.4 months. The rate of change was a negative 9 percent in 1979, 7 percent in 1980, and zero percent in 1981 and this far in 1982. Increasing the average length of stay to 24 months for projection purposes is a 7 percent increase over the present average length of stay.

Table 4
Average Length of Prison Stay Per Inmate
1974 - 1983

<u>Calendar Year</u>	<u>ALS</u>	<u>Months Change</u>	<u>Percent Change</u>
1974	13.1	---	---
1975	14.2	1.1	8.4
1976	15.9	1.7	12.0
1977	19.1	3.2	20.1
1978	23.1	4.0	20.9
1979	21.0	(2.1)	(9.1)
1980	22.4	1.4	6.7
1981	22.4	0.0	0.0
1982	22.4	0.0	0.0
-----PROJECTED IN FORMULA ¹ -----			
1983	24.0	1.6	7.1

¹By Department of Institutions.

If the aggregate length of stay were not increased, prison population estimate would be 78 inmates lower in 1983, 71 lower in 1984, and 62 lower in 1985 as shown in Table 5.

Table 5
A Comparison of the Effect on Prison Population
of a 24 and a 22.4 Months Average Length of Stay
1983 - 1985

<u>Calendar Year</u>	<u>24 Months ALS</u>	<u>22.4 Months ALS</u>	<u>Difference</u>
1983	929	851	78
1984	926	855	71
1985	931	869	62

Physically Present

The Department of Institutions told the Legislative Finance Committee in February 1980 that approximately 5 percent of the prison population was never physically present at the prison. On June 10, 3.3 percent was not physically present.

In fiscal 1983, if 3 to 5 percent were not being housed, this would reduce the additional housing need by 27 to 44 beds.

The June 10, 1982 population was 819. This is 81 less than the 900 population projection for calendar year 1982. Twenty-five prisoners at Montana State Prison were not physically present so housing needed to be provided for 106 less than the calendar year prison population projection.

If the June 1982 prison population projection of 890 were used and the aggregate length of stay were calculated at 22.4 rather than 24 months, the prison population estimate for June 1982 would be 830. If housing were provided for 3 percent less than the projection, 805 housing slots would be funded in comparison to the 794 actual inmates.

Fiscal Year

As the prison population is rising, housing must be provided to accommodate the maximum number of prisoners each year. However, the Legislature has normally based operational costs at institutions on the average yearly population. Therefore, two prison population numbers are needed. Maximum prisoners per year for housing purposes and the average daily population for operating expenses.

Prison Population Issue

What is the average daily prison population physically present for each fiscal year?

Prison population estimates have the following critical points:

1. Is the projection formula valid or does it over project?
2. What average length of stay should be utilized in the projection formula?
3. How many prisoners will be physically present?
4. What is the projected average daily population?
5. What is the population projection for housing needs for each fiscal year?

PRISON HOUSING NEEDS

The executive has made prison population projections as shown in the previous section. Under the executive population projections and following its example of beds needed in fiscal 1985, the Legislature would need to provide beds for 929 inmates in 1983, 926 in 1984, and 931 in 1985.

As shown in Table 6, the executive request for fiscal 1983 includes housing for 820 to 830 inmates which is 99 to 109 less than their 929 prison population projection.

Table 6
Comparison of Executive Housing Request versus
Executive Prison Population Projections

<u>Housing Facility</u>	<u>June 10, 1982</u>	<u>Fiscal 1983 Housing Request</u>
Montana State Prison	718	673
Galen		8
Alpha House	23	25
Missoula Life Skills Center	--	24
Pre-Release Centers	--	40-50
Swan River	<u>51</u>	<u>50</u>
Total	792	820-830
Population Projection		<u>929</u>
Difference		109-99

If the population estimate of 929 is adjusted down to the department's low range, which allows for an error factor of 40 inmates, and is further reduced for 5 percent not being physically present, there would be 843 housing slots needed in fiscal 1983. This is only slightly more than the executive requested.

Housing Capacity--July 1, 1982

On July 1, 1982 the Montana prison system will have the capacity to house 656 inmates without double-bunking and 956 inmates with double-bunking. The Department of Institutions feels a manageable level of double-bunking would be 96 in the Close II Unit. Table 7 shows the housing location and classification if there is no double-bunking, the double-bunking level acceptable to the department, and maximum double-bunking.

Table 7
Prison Housing Available July 1, 1982
Without Double-Bunking

<u>Housing Unit- Custody Level</u>	<u>Without Double-Bunking</u>	<u>Acceptable Level¹ Of Double-Bunking</u>	<u>With Double-Bunking</u>
Montana State Prison			
Maximum	131	131	227
Medium	192	288	324
Minimum			
Inside Walls	192		264
Dairy Barn	32		32
Caretakers	6		6
Cow Camp	<u>4</u>		<u>4</u>
	<u>234</u>	<u>234</u>	<u>306</u>
Total Montana State Prison	557	653	857
Minimum--Swan River	50	50	50
Minimum--Alpha House	25	25	25
Minimum--Missoula Center	<u>24</u>	<u>24</u>	<u>24</u>
Total System	656 ===	752 ===	956 ===

¹The Department of Institutions' definition of acceptable. This is double-bunking 96 in Close II.

Table 8 shows the housing unit and the number of cells that the Department of Institutions says can be double-bunked.

Table 8
Housing Units Single-Bunking and Those
Housing Units the Department says can be Double-Bunked

<u>Housing Unit</u>	<u>Without Double-Bunking</u>	<u>Double-Bunking</u>	<u>Total</u>
Maximum Security	35	0	35
Close I	96	96	192
Close II	96	96	192
A Unit	96	36	132
B Unit	96	36	132
C Unit	96	36	132
Caretakers	6	0	6
Dairy Barn	32	0	32
Cow Camp	4	0	4
Alpha House	25	0	25
Missoula Life Skills Center	24	0	24
Swan River	<u>50</u>	<u>0</u>	<u>50</u>
Totals	656 ===	300 ===	956 ===

A comparison of the present housing facility to the June 10, 1982 prison population is shown in Table 9. Without double-bunking, the prison system lacks beds in all security levels. The biggest difference between available housing and the prisoner custody level is medium security housing. With the present population, 136 prisoners would be double-bunked.

The executive is requesting a budget to house 673 prisoners at Montana State Prison. As the maximum and medium prisoners will be housed at Montana State Prison, there will still be a lack of space for these custody levels. All short-term options for reducing the prison population are for minimum security inmates. The June 10, prison population had 24 more maximum security inmates than available slots and 92 more

medium custody inmates than slots. If the prison population mix remains constant or changes to higher custody orientated, even more higher security inmates will need to be double-bunked.

Table 9
Comparison of Prison Housing July 1983 to Present Prison Population
Without and With Double-Bunking

<u>Custody Level</u>	-----Without Double-Bunking-----		
	<u>Housing</u>	<u>Prisoners</u>	<u>Difference</u>
Maximum - Close I	131	155	(24)
Medium	192	284	(92)
Minimum	<u>333</u>	<u>353</u>	<u>(20)</u>
Total	656	792	(136)
	===	===	===
<u>Custody Level</u>	-----With Double-Bunking-----		
	<u>Housing</u>	<u>Prisoners</u>	<u>Difference</u>
Maximum - Close I	227	155	72
Medium	324	284	40
Minimum	<u>405</u>	<u>353</u>	<u>52</u>
Total	956	792	164
	===	===	===

¹Twenty-seven (27) are not physically present.

When construction is done, the executive proposal will have the following housing capacity. It can accommodate 826 without double-bunking and 1,126 with double-bunking as shown in Table 10.

Table 10
Housing Capacity of the Executive Proposal
Single-Bunking versus Double-Bunking

<u>Housing Unit</u>	<u>Single Bunking</u>	<u>Double Bunking</u>	<u>Total</u>
Maximum Security	35	0	35
Close I	96	96	192
Close II	96	96	192
A Unit	96	36	132
B Unit	96	36	132
C Unit	96	36	132
Caretakers	6	0	6
Dairy Barn	32	0	32
Cow Camp	4	0	4
Alpha House	25	0	25
Missoula Life Skills Center	24	0	24
Swan River	50	0	50
120-Man Close Unit	120	0	120
2 New Pre-Release Centers	<u>50</u>	<u>0</u>	<u>50</u>
Totals	826 ===	300 ===	1,126 =====

Table 11 compares the executive's population projections with its expanded housing request. The executive housing request will not meet its projected prison population even if 5 percent or 46 inmates are not physically present.

Table 11
Expanded Housing Capacity
Versus Projected Prison Population

<u>Year</u>	<u>Population</u>	<u>Housing</u>	<u>Population Above Housing</u>
1985	931	826	105
1986	925	826	99
1987	913	826	87

Housing Issue

How many and what type of housing units are needed in fiscal 1983 and in the future?

MONTANA STATE PRISON OPERATING BUDGET

The department has requested a \$1,022,453 increase in Montana State Prison's operational budget for fiscal 1983 as shown in Table 12. The budget request is based on a physically present population of 673.

Table 12
Comparison of the Montana State Prison
Appropriation to the Proposed Operational Budget
for Fiscal 1983

	<u>Legislature Appropriated</u>	<u>Executive Proposal</u>	<u>Difference</u>	<u>Percent Increase</u>
Population	672	673	1.0	----
FTE	256.79	304.44	47.65	18.6
Personal Services				
Salaries	\$4,399,020	\$5,063,693	\$ 664,673	15.1
Regular Overtime	117,884	117,884	-0-	---
Holiday Overtime	124,914	159,627	34,713	27.8
Longevity	28,735	28,735	-0-	---
Differential	2,800	2,800	-0-	---
Benefits	1,044,027	1,202,944	158,917	15.2
Vacancy Savings	<u>(57,174)</u>	<u>(57,174)</u>	<u>-0-</u>	<u>---</u>
Total Personal Services	\$5,660,206	\$6,518,509	\$ 858,303	15.2
Contracted Services	\$ 713,583	\$ 854,846	\$ 141,263	19.8
Supplies & Materials	1,225,123	1,149,992	(75,131)	(6.1)
Communications	40,269	40,269	-0-	---
Travel	20,228	20,228	-0-	---
Rent	9,790	9,790	-0-	---
Utilities	267,766	279,646	11,880	4.4
Repair & Maintenance	86,309	86,309	-0-	0.0
Other Expenses	125,517	152,589	27,072	21.6
Disturbance Control	<u>-0-</u>	<u>43,066</u>	<u>43,066</u>	<u>---</u>
Total Operating Expenses	\$8,148,791	\$9,155,244	\$1,006,453	12.3
Equipment	<u>47,291</u>	<u>63,291</u>	<u>16,000</u>	<u>33.8</u>
Total Program Costs	\$8,196,082	\$9,218,535	\$1,022,453	12.5
	=====	=====	=====	=====
Cost per Day	33.42	37.53	4.11	12.3

The Montana State Prison population has been between 608 and 675 since 1978. Table 13 shows the average daily population, the operating cost, and the average cost per day (AC/D) and year (AC/Y) for one inmate for fiscal 1978 through fiscal 1983.

Table 13
Historical and Projected Prison Statistics

<u>Year</u>	<u>ADP</u>	<u>Operating Costs</u>	<u>AC/D</u>	<u>AC/Y</u>
1978	608	\$5,948,334	\$26.80	\$9,783
1979	666	6,277,594	25.82	9,426
1980	679	6,349,877	25.62	9,352
1981	710	6,606,784	25.49	9,305
1982	716	7,416,977	28.38	10,359
1983-Appropriated	672	8,196,082	33.41	12,197
1983-Requested	673	9,218,535	37.53	13,698

*Projected by the Department of Institutions on May 31, 1982.

Security Staffing

The executive is requesting 47.65 additional FTE. All except one are for security. Table 14 shows the security staff appropriated for fiscal 1983 in comparison to the new executive request.

Table 14
Security Staff Appropriated Fiscal 1983
Compared to Requested Security Staff

<u>Position</u>	<u>Appropriated Staff</u>	<u>New Staffing Level</u>	<u>Difference</u>
Correctional Officer 1	145.25	189.51	44.26
Correctional Officer 2	2.00	2.00	---
Correctional Sergeant	13.00	15.39	2.39
Correctional Lieutenant	6.00	6.00	---
Correctional Captain	1.00	1.00	---
Armorer	1.00	1.00	---
Associate Warden	1.00	1.00	---
Total	169.25	215.90	46.65
	=====	=====	=====

The number of security staff authorized for fiscal 1983 was determined with the aid of J.J. Clark, a prison consultant. His study was completed in fiscal 1981. Adjustments were made by the new director of the department and funded accordingly during the 1981 session. The positions funded were to man all posts deemed essential by the department.

The department is requesting staffing for 19 security posts over the post staffing level that was recommended by the consultant. That request and the staffing level recommended by the consultant are shown in Table 15 for the posts affected.

Table 15
Staffing by Post
New Staff Requested Versus
Staffing Level Recommended by Consultant

<u>Housing Unit</u>	<u>Shift</u>	<u>Consultant's Recommendation</u>	<u>New Request</u>	<u>Difference</u>
Close Unit I	6-2	3	6	3
	2-10	2	6	4
	10-6	2	3	1
Close Unit II	6-2	3	4	1
	2-10	3	4	1
	10-6	2	3	1
Maximum Security	6-2	2	4	2
	2-10	2	4	2
	10-6	2	3	1
	8-4	1	0	-1
Tower II	6-2	0	1	1
	2-10	0	1	1
	10-6	0	1	1
Visiting Room	12:30-8:00 p.m.	2	3	1
	8-4	0	1	1
Sally-Post Officer	6-2	1	1	0
	2-10	1	1	0
	10-6	<u>1</u>	<u>0</u>	<u>-1</u>
Totals		27 ==	46 ==	19 ==

The department had one less staff than the consultant had recommended for the above posts. Therefore, the executive is requesting 20 additional posts be filled. Also, there is a request to fill five posts in the dairy barn for a total of 25 more security posts.

A post does not equal a FTE because a FTE only works 40 hours a week and has vacation, holidays, sick leave, etc. Therefore, it takes 1.6 FTE to man one post. The ratio of the number of FTE required to the number of posts is called the relief factor.

The department was budgeted on the basis of a 1.55 relief factor for fiscal 1983. The department has raised the relief factor used to calculate the number of FTE's needed to man a post 24 hours a day to 1.62.

The department used an annual vacation factor of 15.89 days and a sick leave factor of 9.05 days in calculating the relief factor. Included in the vacation factor was 3.27 days of termination leave. Included in the sick leave factor was .56 days of termination sick leave. The proper amounts that should be used are 12.62 days for annual vacation and 8.49 days for sick leave. The department also used 10 holiday days instead of the 11 that will occur in 1983.

With these changes inserted into the calculation, the actual relief factor being experienced in fiscal 1982 is 1.60. Table 16 shows that 2.87 additional FTE will be budgeted if the relief factor is 1.62 rather than 1.60.

Table 16
Effect of Relief Factor at 1.62 and 1.60 on
Department's FTE Request

<u>Posts</u>	<u>-----FTE-----</u>		<u>Difference</u>
	<u>1.62</u> <u>Relief Factor</u>	<u>1.60</u> <u>Relief Factor</u>	
19 Correctional Officers Posts	30.78	30.40	.38
1 Sergeants Post	1.62	1.60	.02
5 Dairy Barn Posts	8.10	8.00	.10
Existing Posts	<u>6.15</u>	<u>3.78</u>	<u>2.37</u>
Totals	46.65	43.78	2.87

¹This is the increase in the existing staff with no increase in posts to staff if the relief factor is increased from 1.55.

Vacancy Savings

All new positions are requested at the fiscal 1983 salary level with no vacancy savings. Three percent was the vacancy savings rate applied statewide for the 1983 biennium. If 3 percent vacancy savings were applied, this would reduce the personal services request by \$25,750.

In fiscal 1980, the prison's vacancy savings rate was 3.4 percent; in fiscal 1981 it was 6.3 percent. During the first 11 months of 1982, turnover has been approximately 38 percent.

Other Staff

The executive is requesting one psychologist III to provide additional psychological evaluation of inmates. The additional cost for this position is \$26,642 in fiscal 1983.

Staff Issue

The main question is--How many security personnel are needed? J.J. Clark, the consultant who evaluated the prison staffing needs, stated:

"The mission of the Montana state prison, coupled with the design features of the facility and perimeter fence, will require an above average security staffing level." He notes that heavy staffing was needed because of the varied custody population, the idle prisoners, the guard tower not being complete, the inappropriate perimeter fence, and the union contract.

No specific justification for the new security staff other than the dairy barn and the relief factor has been received.

1. Should one security post be funded to reach the consultant's recommended level?
2. Should 19 security posts above the consultant's recommended staffing level be funded?
3. Should the dairy barn be utilized?
4. Should the relief factor be increased?
5. Should vacancy savings be applied to new staff?
6. Should one new staff psychologist be added?

Contracted Services

The department is requesting an increase in contracted services of \$141,263. Table 17 compares the department's requested increase to the fiscal 1983 appropriation.

Table 17
Contracted Services Request Compared to the
Contracted Services Appropriation for
Fiscal Year 1983

<u>Contract Service</u>	<u>Request</u>	<u>Appropriation</u>	<u>Increase</u>
Medical Costs	\$493,641	\$404,096	\$ 89,545
Data Processing	9,646	8,642	1,004
Printing	3,895	3,490	405
Legal Services	91,104	81,629	9,475
Inmates in Other Jails	<u>85,757</u>	<u>60,264</u>	<u>25,493</u>
Subtotal	\$684,043	\$558,121	\$125,922
Contract Psychiatrist	30,888	15,547	15,341
Total	<u>\$714,931</u> =====	<u>\$573,668</u> =====	<u>\$141,263</u> =====

All contract service cost increases other than the psychiatrist were justified by the department's saying it would cost a fixed amount per additional inmate to increase Montana State Prison's population to 750 from 672. However, its proposal is to move 77 to Galen or community corrections, so the Montana State Prison population would remain at 673.

The budget increase for contract services was \$159,561 if community corrections were not funded and the population went to 750. However, when they proposed the expanded community correction program which left the Montana State Prison population at 673, they only removed \$33,639 of the imaginary increase. This leaves \$125,922 in the contract service budget with no justification.

The psychiatrist contract is to increase the visits from one per week to two per week at a cost of \$297 for six hours.

Supplies

The request for supplies is a decrease of \$75,131. The prison said if the community correction centers are funded, the prison supply budget could be reduced. However, if the community correction centers are not funded, there is no request for increased supplies.

Utilities

The department is requesting \$11,880 additional funding for utilities to pay the cost of electricity and natural gas for the new religious center. The department did not include utilities for this center in their 1983 biennium request nor is there any testimony in long range building to indicate whether private sources or state sources were to fund the operation of the religious center.

Other Expenses

Other expenses include funds for 78 new inmate jobs at a cost of \$18,617. As the budget already had funding for 352 inmates, total inmates employed at Montana State Prison, but not in the industries program, will be 430. The inmate is reimbursed on the average approximately \$1 per day for an average of six hours of work.

Disturbance Control

The prison wants 31 current staff to work overtime to take training. They will have four teams for disturbance control. Overtime will cost \$23,515, operating supplies will cost \$11,272 and equipment will cost \$8,279. The total cost is \$43,066.

The following equipment is requested:

Two Bull Horns - 2 @ \$250.00	=	\$ 500.00
Air Pac with Case - 2 @ \$853.00	=	1,706.00
Video Team Equipment	=	3,273.00
Portable Radios - 2 @ \$800.00	=	1,600.00
Gas Guns - 2 @ \$200.00	=	400.00
.308 Rifle - 2 @ \$400.00	=	800.00

Equipment

The executive requests one 4-wheel drive vehicle for pursuing escaped prisoners. The cost is \$16,000. Presently, they have four 4-wheel drives located at the ranch, and one pursuit four-wheel drive at the prison complex.

They were appropriated funds for three vehicles in fiscal 1982: a 12-passenger van and two cars for \$22,809, and 3 cars in fiscal 1983 for \$20,781. They purchased two midsize autos and one four-wheel drive Blazer in 1982 and plan to purchase one van and one car in 1983.

Non-Staff Issues

Points to be determined for the MSP budget other than staff are as follows:

1. Contract Service
2. Supplies
3. Utilities
4. Prisoner Pay
5. Disturbance Control
6. Equipment

COMMUNITY CORRECTIONS

The department is proposing to place an additional 79 inmates into community pre-release centers in fiscal 1983. The location and total capacity of the centers are shown in Table 18.

Table 18
Community Pre-Release Centers and Their Capacity

<u>Center</u>	<u>Capacity</u>
Missoula Life Skills Center	24
Alpha House*	5
A - New Pre-Release Center	25
B - New Pre-Release Center	<u>25</u>
Total	79
	==

*Present budget is for 20.

Table 19 shows the major cost items for each center. The Missoula Life Skills Center is state operated. The other three centers contract with the state to provide room and board.

Table 19
Comparison of Costs Among Pre-Release Centers--Fiscal 1983

	<u>Missoula</u>	<u>Alpha</u>	<u>A-Center</u>	<u>B-Center</u>
Room & Board ¹	\$ 34	\$ 30	\$ 35	\$ 35
Psychiatrist	-0-	20	20	20
Medical	408	667	667	667
Dentistry	91	57	57	57
Clothing	-0-	76	76	76
Separation Allowance	85/inmate	-0-	-0-	-0-

¹Missoula's cost does not include one-time equipment to handle eight more prisoners and move to new centers.

Budgets for each contracted center are based on \$35 per day for each inmate's room and board, \$667 per year per inmate slot for average medical costs, \$19 for dentistry, and \$76 for clothing for each of the 75 inmates who utilize the center during the year.

Room and Board

Room and board at the two new pre-release centers is based on Alpha House costs without any prisoner contributions towards their keep. Alpha House costs were determined to be approximately \$32 per day by the Department of Institutions after deducting the \$3 per day inmate contribution.

Alpha House started in fiscal 1981. Their contract rate was \$22.50 per day. The 1981 Legislature budgeted \$24.50 per day in fiscal 1982 and \$26.49 in fiscal 1983. This is approximately a 9 percent increase for fiscal 1982 and an 8 percent increase for fiscal 1983. The request from the Department of Institutions was \$193,304 for fiscal 1983 which is \$26.49 per day.

Apparently in April of 1981, the department renegotiated the contract to \$27.50 retroactive to October 1980. The \$27.50 contract price continued into fiscal 1982. The executive request showed the fiscal 1983 budget at \$29.73 per day in contrast to the \$26.49 requested by the department and appropriated by the Legislature. However, Alpha House was not line-itemed in the appropriation bill; it was included in the Correction Division budget. It appears funds anticipated for other services were reduced to supplement Alpha House.

For the first ten months of fiscal 1982, Alpha House spent \$200,148. Funds were available from the sources shown in Table 20.

Table 20
Revenue Sources and Amounts for Alpha House
June 1981 - April 1982

<u>Source</u>	<u>Amount</u>
State	\$152,460
Federal Prisoners	11,045
Prison Payments	17,653
Grant Contributions	<u>10,660</u>
Total	\$191,818 =====

Revenues were \$191,818, which is \$8,329 less than expenditures. Based on those expenditures and having provided 5,870 days of care, the department calculated the actual cost after inmate contributions at \$31.10 per inmate day in fiscal 1981.

The department requested and the Legislature appropriated for an average daily state population of 20 state prisoners. This would have been 6,080 care days for the first ten months of fiscal 1982 rather than the 5,544 state care days provided. Alpha House provided 91 percent of the care days appropriated for by the Legislature.

If the state paid the excess expenditures without questioning their validity and daily population averaged 20, the state would pay \$26.45 per inmate day in fiscal 1982. This is higher than the anticipated cost of \$24.50 but certainly lower than \$31.10.

Table 21 shows the rate anticipated in the appropriation, the cost per day if the average daily population were 20, and the rates requested by the department of institutions. If \$26.45 is projected into fiscal 1983 at the rate of 8.1 percent as established by the 1981 Legislature, the cost per day in fiscal 1983 would be \$28.59.

Table 21
Cost Comparison of Possible Rates at
Alpha House for Fiscal 1983

	<u>Rate</u>	X	<u>Inmate</u>	=	<u>Cost</u>
1. Appropriation Bill	\$26.50		25		\$241,813
2. Actual with Inflation	28.59		25		260,884
3. Department Request	29.73		20		275,703
	32.15		5	}	

When these rates are applied to all three contracted pre-release centers, the cost difference is \$99,918 between the low and the high options. This is shown in the following table.

Table 22
Cost Comparison of Possible Contract Rates at
Pre-Release Centers for Fiscal 1983

	<u>Rate</u>	X	<u>Inmate</u>	=	<u>Cost</u>	<u>Difference</u>
Appropriation Bill	\$26.50		75		\$725,438	} \$57,213
Actual with Inflation ¹	28.59		75		782,651	
Department Request	30.15		75		825,356	
Total Difference						\$99,918 =====
¹ Combined Rate						

Prisoner room and board contribution. Alpha House requires each inmate to contribute to his room and board. This contribution averages approximately \$3 per day per inmate. Budget requests for the Missoula Life Skills Center and the two new centers do not reduce the costs by inmate contributions. If the 74 inmates at Missoula and the other centers

are not working, what will their activities be? If they are working, why do we not show a room and board contribution?

For 74 inmates, the contribution at \$3 per day would total \$81,030 on an annual basis. For fiscal 1983, it would total \$26,280 at Missoula, \$22,800 at Center A, and \$13,500 at Center B.

Inmate Pay. The Missoula Life Skill Center budget includes \$85 gate pay for each of the 72 inmates per year. Budget requests for the other two new centers do not include any prisoner room and board contributions. This would indicate they are not working; however, their budgets do not include gate pay.

If the prisoners are going to be required to obtain employment, there does not appear to be any reason for the state to pay them \$85 each when inmates leave the pre-release centers. This cost is \$6,120.

The Missoula Life Skills Center is proposed to house 24 pre-release inmates rather than 16 probationers as budgeted. The department has requested an additional \$102,465 for the change in staffing, added operating expenses, and equipment.

Five additional security staff and a half-time secretary are requested. There will be one security person in the day and two each for the evening and night shifts. Administrative staff includes: a director, a social worker, a transportation officer, and the half-time secretary.

Operating expenses and equipment are based on keeping eight additional people and on the actual costs incurred in fiscal 1982.

Medical and Dental Cost. Inmates are to receive medical and dental care that is necessary to safeguard their health. The cost of all such medical and dental treatment requiring the assistance of a physician is the primary responsibility of the client to the extent of his ability to pay and

then of the division. The Department of Institutions was budgeted \$253 for dentistry and medical cost for each inmate slot at Alpha House.

During fiscal 1982, one inmate at Alpha House incurred extraordinary medical costs of approximately \$8,062. Based on this, the executive is requesting the medical budget to increase from \$234 per slot to \$667 per slot--a \$16,680 annual cost for 25 slots. Through May, the department incurred a total medical and dentist bill of \$154 or about \$8 each for the other inmates at Alpha House.

As all pre-release centers' budgets other than Missoula's are based on medical and dental charges on the same rate per inmate, it becomes rather costly to increase the budget 185 percent, as is shown in Table 23.

Table 23
Medical and Dental Costs Options for Pre-Release Centers
Per Inmate Slot

<u>Alpha House</u>	<u>Average Cost</u>	<u># of Inmate Slots</u>	<u>Total Cost</u>
Actual Costs w/o Exception	\$ 8	75	\$ 600
Actual Cost with Exception	411	75	30,825
Appropriated by Legislature	234	75	17,550
Requested Cost	667	75	50,025

The department is notified before medical costs are incurred unless there is an emergency. Under emergency circumstances, the department is promptly notified. If an inmate were having severe medical problems, he would probably not be able to work; perhaps the department should consider the option of moving severely ill inmates back under Montana State Prison's budget.

Partial Year Budget--Pre-Release Centers

The two new centers are scheduled to open during fiscal 1983--one on September 1, 1982 and one on January 1, 1983. Table 24 shows the fiscal 1983 budget request.

Table 24
Part Year Operating Costs--New Pre-Release Center
Fiscal 1983

<u>Opening Date</u>	<u>Department Request</u>
1. 9/1/82 75% of Year	\$258,491
2. 1/1/83 50% of Year	<u>172,328</u>
Total Operating Costs	\$430,819
Renovation Costs	<u>35,000</u>
Total Cost Fiscal 1983	\$465,819 =====

The department's request of \$70,000 for renovation is for fiscal 1983 only. This is \$35,000 for each center.

The annual operating cost of establishing these two new centers under the executive cost figures is \$689,381.

Community Corrections Issues

The following are points to consider in the community correction centers budgets:

1. Cost Per Day
2. Inmates' Room and Board Contribution
3. Gate Money
4. Medical Expenses

BOARD OF PARDONS

The Board of Pardons is requesting additional funding of \$16,398. Table 25 shows the categories for that request.

Table 25
Board of Pardons Additional Funding Request
Fiscal 1983

FTE	.50
Personal Services	6,124
Operating Expenses	3,474
Equipment	<u>6,800</u>
Total Request	\$16,398 =====

Personal Services

The board is requesting an additional half-time secretary to handle increased work load. Table 26 shows the board's work load from 1976 to 1982.

Table 26
Parole Boards Total Cases and Percent Increases for
1976 - 1982

<u>Calendar Year</u>	<u>Total Cases</u>	<u>Increase (Decrease)</u>	<u>Percent</u>
1976	590	---	---
1977	743	153	26
1978	799	56	8
1979	730	(69)	(9)
1980	727	(3)	---
1981	866	139	19
1982*	866	-0-	0
1983	Not available. No estimate received from Board.		

*Prediction from Board of Pardons staff.

The Board also sought authorization for a half-time secretary from the 1981 Legislature. The request was denied because the Legislature did fund additional contracted services of \$1,725 for a court reporter to transcribe board meetings. The main reason for the request of a half-time secretary was the need for the present secretary to spend much of her time transcribing notes which took her away from her other duties. The funding for the court reporter was to free up the present secretary.

The Board is also requesting an additional \$500 in per diem for a board member to hold hearings with inmates at the new pre-release centers. This is based on an estimated 20 meetings at \$25 per meeting.

The Board is requesting \$6,800 for a car and \$1,283 for operating costs from September 1, 1982 to June 30, 1983. Table 27 shows the annual operating cost of the car based on 18,000 miles traveled per year over a five-year life.

Table 27
Annual Operating Costs and Cost Per Mile
Useful Life Five Years

<u>Item of Cost</u>	<u>Yearly Expenses</u>
Depreciation	\$1,360
Annual Operating Costs	<u>2,335</u>
Total Annual Cost	\$3,695
Miles Per Year	18,000
Cost per Mile	\$0.21

The current rate of reimbursement for state employees using their own car for state business is 20 cents per mile. If the car is purchased, the \$1,837 already appropriated for use of staff personal cars could be subtracted from the request for additional funding. The Board has requested \$1,659 in additional meals and lodging costs for travel to the two

new pre-release centers, Missoula Like Skills Center, and one extra day at Swan River Youth Forest Camp.

FISCAL 1982 PROJECTED DEFICIT

The department has projected that the fiscal 1982 general fund deficit at the prison will total approximately \$85,655, but will not request a supplemental to fund this deficit. Department officials have stated this deficit will be made up with pay plan funds.

Pay plan funds were appropriated in HB 840 for the purpose of funding the pay raise. These funds were not appropriated for staff augmentation or operating budget deficits.

Issue

How is the fiscal 1982 operating deficit to be funded?

LONG-RANGE BUILDING

Construction costs at Montana State Prison since 1973 have totaled \$10,145,504 to date. This includes \$175,675 in renovation costs for existing facilities that were present when new construction began. Table 25 shows each project and its cost to date.

Table 25
Long-Range Construction Expenditures
1971 - 1981

<u>Item of Construction</u>	<u>Expenditures</u>
Maintenance and Renovation	\$ 175,675
Original Prison Complex (1973 and 1975 Leg. Approp.)	5,206,646
Water Well	191,191
Sewage Lagoon	160,556
Tag Plant	60,515
Close I and Close II	3,414,485
Sewage System	290,697
Guard Tower I	159,808
Guard Tower II	194,046
Upgrade Perimeter Security	51,000
Religious Center	215,885
Chapel Design	<u>25,000</u>
Total	\$10,145,504 =====

All of the appropriations equaled or exceeded the request for spending authority from the executive. Legislative appropriations of \$10,176,361 and the \$375,556 of budget amendments for construction costs are shown in Table 26. A balance of \$406,413 remains from all the authorized funds. Of that amount, \$234,115 is for finishing the religious center, and \$60,954 remains for Guard Tower II.

Table 26
Montana State Prison
Construction Appropriations and Budget Amendments
1971 - 1981

<u>Year</u>	<u>Authority</u>	<u>Purpose</u>	<u>Amount</u>
1971	Legislative	Maintenance & Renovation	\$ 200,000
1973	Legislative	New Prison Complex	4,400,000
1974	Budget Amendment	Water Well	120,000
1974	Budget Amendment	Add on to Infirmary	95,000
1975	Legislative	Complete Prison Complex	826,361
1976	Budget Amendment	Sewage Lagoon	160,556
1977	Legislative	Close Units I & II	3,800,000
1979	Legislative	Guard Tower I	161,000
1979	Legislative	Religious Center	450,000
1981	Legislative	Guard Tower II	255,000
1981	Legislative	Chapel Design	25,000
1981	Legislative	Perimeter Security	59,000
Total			\$10,551,917 =====

The original request to build a new prison in 1971 was for \$4.1 million. The appropriation of \$4.1 million was contingent upon receiving federal funds for the project. The appropriation allowed \$200,000 to be spent for maintenance and renovation if the federal funds did not materialize. The 1973 Legislature then appropriated \$4.4 million to build the new prison complex. The 1975 Legislature authorized \$826,361 to finish the minimum security units as construction costs were greater than what had been requested from the 1973 Legislature.

The 1977 Legislature authorized \$3.8 million to add two 96-man Close Units to the new prison complex. The executive had requested only \$1.3 million for one 96-man Close Unit.

Since 1979, the Legislature has authorized \$475,000 to fund security improvements at the prison.

PRISON INDUSTRIES, EDUCATION, AND WORK OPPORTUNITIES

The industries program at Montana State Prison includes:

- Upholstery
- Furniture Manufacturing and Refinishing
- Timber and Wood Products
- Printing
- Sign Manufacturing
- License Plates
- Prison Ranch and Dairy

These programs are anticipated to be self-supporting with the exception of the license plate manufacture which is funded by the Department of Justice.

The education programs at the prison include: vocational programs in meat cutting, culinary arts, electronics, welding and auto mechanics, and adult basic education.

Both the industries and education programs seek to accomplish objectives of 1) preventing prisoner idleness, and 2) giving work and job skills that can be used by inmates upon release. In addition, the industries programs produce products and services that can be sold to defray the costs of the program.

Legislative Background

The 1965 Legislature enacted an institutional industries law. The 1979 Legislature requested the Department of Institutions, in House Bill 483, to "...present a plan to provide work opportunities for prison inmates to the 1981 Legislature". This plan, when submitted, outlined four goals: 1) increase the number of jobs available for inmates; 2) develop profit-oriented industrial operations; 3) create a realistic work environment; and 4) develop a management structure that will allow industries to operate like a business. The plan also identified seven problems with existing industries: 1) market for products limited to state agencies; 2) limited need

within authorized market for products; 3) lack of a separate industries staff; 4) lack of a marketing program; 5) equipment has to be shared with prison maintenance program; 6) lack of product quality control; and 7) lack of inventory of basic raw materials or funds to purchase such an inventory.

The 1981 Legislature responded to this plan by 1) appropriating \$221,500 general fund start-up cost for the industries program; 2) authorizing 5.0 FTE for operation of the industries program; and 3) revising industries legislation to allow sales of products to any political subdivision of the state, other states, and their political subdivisions, nonprofit organizations, and on the open market.

Industries to be Self-Supporting

The industries programs were directed by the Legislature to become self-supporting. The 1981 Legislature appropriated \$56,500 to purchase equipment, and \$87,000 in fiscal 1982, and \$78,000 in fiscal 1983 to get the industries programs started. Money appropriated for start-up by the 47th Legislature is to be repaid in future years with \$17,500 to be returned in fiscal 1983. The department estimates income from industries of \$136,961 in fiscal 1982 and expenses at \$209,756. The resulting loss for fiscal 1982 of \$72,795 would be partially absorbed by federal funds (\$34,899) with the remaining \$37,896 to be picked up by general fund start-up appropriations for fiscal 1982.

Table 27
Estimated Industries Loss Fiscal 1982¹

Income from Sales	\$136,961
Expenses	<u>209,756</u>
Loss	\$(72,795)
Financed from	
Federal Funds	\$ 34,899
General Fund	<u>37,896</u>
Total Loss	\$ 72,795 =====

¹ Figures exclude the prison ranch and license plate factory.

As Table 28 indicates, losses in fiscal 1982 were less than anticipated and most equipment purchases were not made. The unused equipment funds primarily result from a decision to abandon the validation tag program.

Table 28
Use of Legislative Appropriations for
Prison Industries Start-Up

	Appropriated FY '82	Used ¹ FY '82	Unused FY '82	Appropriated FY '83
Operating Losses	\$ 87,000	\$36,096	\$ 50,904	\$78,000
Equipment ²	<u>56,500</u>	<u>1,800</u>	<u>54,700</u>	<u>---</u>
Total	\$143,500 =====	\$39,696 =====	\$103,804 =====	\$78,000 =====

¹ Department of Institutions estimate.

² Equipment Authorized by Legislature

Industrial Sewing Machines	\$ 6,000
Print-Padding Press	500
Validation Tag Equipment	50,000

Prisoner Employment in Industries Programs

The number of inmates that may participate in industries is limited by several factors:

1. Prisoners in custody levels Maximum I, Maximum II, and Close I, do not participate in industries programs because they cannot leave the double-fenced area. Their work opportunities are likewise limited.
2. Prisoners in custody level Medium I cannot leave single-fenced industries area; Medium II can leave the fenced industries area under supervision only.
3. Some prisoners are not available for work because of Administrative Segregation (Protection).
4. A few prisoners may not wish to participate in industries programs.
5. Many prisoners have prison jobs that prevent them from participation in industries programs (although some prison jobs may be overstaffed currently with the possibility that if opportunities in industries opened, they could be shifted to productive work).
6. The availability of industries positions.

The number of inmates potentially eligible for industries or ranch employment is calculated by including all inmates except those in Maximum and Close I housing. However, out of this number must come inmates who hold prison jobs or participate in education programs. The Department of Institutions represents that approximately 438 inmates are currently employed in various capacities at the prison or in education programs. Approximately, 70 of these are from populations in Maximum and Close I Units and therefore, do not reduce the numbers available for industries or ranch employment. Therefore, the remaining 368 would be drawn from the pool of inmates eligible for industries programs.

Table 29
Inmates Available for Industries Programs

	Eligible for Industries	Not Eligible for ¹ Industries	Total
<u>Current</u>			
Prison Population	563	155	718
Currently in Prison Employment or Education	<u>368</u>	<u>70</u>	<u>438</u>
	195	85	280
<u>Executive Estimate</u>			
Prison Population	518	155	673
Currently in Prison Employment or Education	<u>368</u>	<u>70</u>	<u>438</u>
	150	85	235

¹Maximum and Close I

The prison ranch currently employs approximately 75, while industries employ 58 (which includes 22 employed at the license plate plant). This leaves over 60 of those available for industries unassigned. This would fall to 17 under the executive plan to move inmates to other locations.

	<u>Current</u>	<u>Executive Estimate</u>
Net Available for Industries	195	150
Employed in Industries	(58)	(58)
Employed on Ranch	<u>(75)</u>	<u>(75)</u>
Unassigned	62	17

The director of prison industries pointed out that approximately 25 additional inmates could be employed in current industries programs using current facilities if new equipment were purchased for upholstery, furniture, and printing programs and additional markets were found for print

shop services. Further expansion of industries programs would likely require additional facilities.

Executive Industries Proposals

The executive proposal for the special session requests \$52,500 of the \$56,500 general fund appropriated for equipment purchases in fiscal 1982 be reappropriated for use in fiscal 1983. The original appropriation for equipment contained \$50,000 for equipment to produce validation tags. This project, however, was abandoned. The prison would now like to use these funds to purchase new equipment for print shop (\$30,000), upholstery (\$7,000), and furniture (\$13,000) programs. The executive also proposes reappropriation of approximately \$45,000 of the \$87,000 appropriated for start-up costs of the industries programs in fiscal 1982. The savings here resulted from availability of federal funds and a less than anticipated deficit. The 47th Legislature appropriated \$78,000 for start-up in fiscal 1983.

Prison Employment and Education

In addition to prison industries and ranch operations, inmates have opportunities for employment in a wide variety of prison jobs and participation in educational programs. As pointed out previously, 438 inmates are currently participating in these programs. The executive proposal is to increase this participation so all inmates would be active in a program except those in maximum security and a portion of those in Administrative Segregation for protective purposes. Individuals in prison jobs and education programs are paid on a sliding scale that averages slightly less than one dollar per day. The prison is currently funded to provide pay for 352 inmates. The executive proposes adding funds to pay an additional 78 inmates at a total cost of \$18,617 as summarized below.

Table 30
Calculation of Inmate Employment Needs

	<u>Current</u>	Executive ¹ <u>Estimate</u>
Currently in Prison Employment or Education	438	438
Unassigned	<u>62</u>	<u>17</u>
Maximum Inmate Employment Potential	500	455
Currently Funded	(352)	(352)
Absorbed in Industries Expansion	<u>(25)</u>	<u>(25)</u>
Inmate Positions Needing Funds ¹	123	78

¹ Assumes no additional work or education assignments for inmates in Maximum and Close I.

Fiscal Issue

1. Should the unexpended fiscal 1982 general fund appropriation for industries operations and equipment be reappropriated?
2. Should funding be provided for 78 more jobs at the prison?

PRISON POPULATION--HISTORICAL AND PROJECTED

Prison population is a function of the number of commitments to prison and the aggregate length of stay (how long a group admitted to prison stays there) in prison. Actual prison population for the past 20 years and the projected population through the year 1990 are shown in the following Table 31.

Table 31
Prison Population
Actual 1961 - 1981
Projected 1982 - 1990

<u>Year</u>	<u>Population</u>	<u>Year</u>	<u>Population</u>	<u>Year</u>	<u>Population</u>
1961	670	1971	250	1981	776
1962	658	1972	282	----Projected---	
1963	709	1973	315	1982	900
1964	760	1974	345	1983	929
1965	585	1975	392	1984	926
1966	548	1976	510	1985	931
1967	522	1977	572	1986	925
1968	465	1978	681	1987	913
1969	376	1979	706	1988	898
1970	260	1980	720	1989	882
				1990	865

As the table shows, the population in the past was highest in 1964 at 760 inmates. Population dropped to a low of 250 in 1971 and has increased steadily up to 776 inmates in 1981. The 1982 to 1990 figures are projections based on two variables that the Department of Institutions has found to be correlated with the number of inmates: 1) an average of 37.51 per 10,000 males aged 18-34 that will be committed to prison each year; 2) a 24-month aggregate length of stay.

The prison population projections were made assuming that all other factors affecting prison population remain the same. Any changes in those

other factors may also affect prison population. The major factors that appeared to have a significant affect on prison population are determinate and minimum sentencing laws. Several states have passed laws requiring determinate sentencing, along with required minimum sentences for certain crimes, such as the sale of drugs. Some studies in those states indicate those laws have increased the number of inmates entering prison and kept them there longer with an overall increase in total population. The department has stated that other factors, such as public opinion and changes in good-time policies, have an effect on the population. However, data to support those statements is not available for measuring what effects, if any, those factors have.

An inmate, other than one serving a maximum time sentence or a life sentence (currently there are 87 in those two categories), may be eligible for parole when he has served at least one-half of his full term, less good time earned. In the case of a nondangerous offender, he may be paroled after serving at least one-fourth of his full term, less good time. The parole board grants parole to an inmate primarily based upon an interview with the inmate, and reports on the inmate prepared by its staff and by the prison's staff. The inmate also presents a parole plan to the board for its approval. The board reviews that plan to see that it will meet the needs the inmate has while on parole. In calendar year 1981 the parole board granted 336 paroles and revoked 95 parolees out of a total of 866 on parole--an 11 percent return rate. Twenty-four of the 95 were reparaoled within 3 to 12 months of the original revocation. The average time an inmate was incarcerated prior to being considered for parole in 1981 was 16.9 months.

GOOD-TIME POLICIES

Each inmate employed in any prison work or activity is granted "good-time" allowances which act as a credit on the inmate's sentence. Section 53-30-105, MCA, provides that the Department of Institutions may grant good-time allowances not to exceed the following:

- (a) Ten days per month for inmates assigned to Maximum, Close, and Medium I security classifications.
- (b) Thirteen days per month for those classified as Medium II and Minimum security classifications.
- (c) Fifteen days per month for inmates after having been assigned as Medium II or Minimum security for an uninterrupted period of one year.
- (d) Thirteen days per month for those inmates enrolled in school who successfully complete the course of study or who, while so enrolled, are released from prison by discharge or parole.
- (e) Three days per month for those inmates participating in self-improvement activities designated by the department.

In the event of an attempted escape by an inmate or a violation of the rules prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good-time allowances. The warden of the state prison shall advise the department of any attempted escape or violation of rules on the part of the inmate. Any punishment involving forfeiture of good-time allowance must be approved by the department.

Significant changes in the good-time laws should have an effect on prison population because good-time earned decreases the length of time an inmate spends in prison.

INMATE CLASSIFICATION

Inmate classification serves two purposes. The first is to safeguard both the well-being of the inmate and the effective operation of the institution. The second purpose is to maximize the likelihood of rehabilitation for the offender by assuring that inmates are assigned to a proper program and level of custody. Input for an inmate's classification is sought from all available resources, including the inmate. All factors in his background and environment having an influence upon his personal development are analyzed. An inmate is analyzed with respect to two sets of classification criteria, security criteria and program criteria. Security criteria is made up of the following:

1. Past Behavioral History:
 - a. Current offense (assaultive, impulsive, situational or property crime).
 - b. Criminal history (convictions, institutional adjustments, and probation and parole adjustments).
 - c. Public opinion (sensationalism of crime, degree of community outrage).
2. Institutional Adjustment:
 - a. Escapes (breakouts, sneakouts, and walkaways).
 - b. Anti-authority attitudes (Class II rule infractions, poor work performance, rebelliousness, gang orientation).
 - c. Substance abuse (alcohol or drug incidents).
3. Legal Constraints:
 - a. Time remaining to parole or discharge.
 - b. Additional charges and/or detainers.
 - c. Court instructions and/or designation.

Program criteria is made up of the following:

1. Mental/Physical Well-Being:
 - a. Structure/control needs.
 - b. Medical/psychological treatment needs.
 - c. Educational/vocational training needs.
 - d. Protective/isolation/special-care needs.

2. Receptiveness to Programming:

- a. Attitudes (sincerity, legitimacy).
- b. Amenability (capacity or willingness to profit).
- c. Appropriateness (length of sentence, escape risk).
- d. Availability of resources.

After an inmate has been analyzed using the classification criteria, he is given a custody designation that determines his custody level and housing unit. There are seven inmate custody levels at MSP (plus two special custody status designations for those inmates who are segregated from the regular inmate population). Those custody levels are as follows:

<u>Custody Level</u>	<u>Housing Area</u>
Maximum Security Custody	Maximum Security Building
Maximum II Custody	Close Unit I Building (lower level)
Close I Custody	Close Unit I Building (upper level)
Medium I Custody	Close Unit II Building (lower level)
Medium II Custody	Unit A Building
Minimum I Custody	Unit B Building
Minimum II Custody	Unit C Building

The two special custody status designations for those inmates who are segregated from the regular inmate population are as follows:

<u>Custody Level</u>	<u>Housing Area</u>
Administrative Segregation Custody	Close Unit II Building (upper level)
Reception (New Inmates)	Close Unit II Building, or Close Unit I Building (specifically selected housing wings)

The types of inmates classified by their custody levels and their security procedures and policies are as follows:

A. Maximum Custody: Those inmates classified to Maximum Custody (or housed in the Maximum Security Building) typically include:

1. Death row inmates.
2. Assaultive, rebellious, disruptive, or predatory types of inmates, or those with high escape potential, all of whom require the utmost control measures.

3. Inmates requiring segregation because of special dangers they may pose to themselves or others.
4. "Temporary lock-up" inmates facing court or disciplinary committee hearings for crimes or serious rule infractions.
5. Inmates serving detention time for disciplinary hearing sentences.

Maximum Custody security procedures and policies typically include:

Work Assignments: Limited to unit jobs only.

Mobility from Unit: None (except for unavoidable legal or medical purposes)!

Escort: Security personnel only (and with restraint equipment worn by the inmate when leaving the unit).

- B. Maximum II Custody: Inmates classified to Maximum II Custody typically include:

1. Assaultive, rebellious, disruptive, or predatory types of inmates, or those with high escape potential, all of whom require the utmost control measures, but who can be managed by staff in small groups.
2. Inmates requiring segregation because of special dangers they may pose to themselves or others, but who can safely function in small, well supervised groups.
3. "Temporary lock-up" inmates facing court or disciplinary committee hearings for crimes or serious rule infractions, where Maximum Security is overcrowded, and the inmate can be safely controlled and managed in a small group.

Maximum II Custody security procedures and policies typically include:

Work Assignments: Unit jobs only.

Mobility from Unit: None (except for visiting, legal and medical purposes)!

Escort: Security personnel only (and with restraints used if deemed necessary).

- C. Close I Custody: Inmates classified to Close I Custody typically include:

1. Releases from Maximum Security or Maximum II Custody who have serious records of institutional misconduct in the past.
2. New inmates with prior histories of aggressive, disruptive, or escape attempt behavior.
3. Reclassified inmates from less restrictive custody who have been found unworthy of the greater trust afforded in the lesser custody classifications.

Close I Custody security procedures typically include:

Work Assignments: Inside main perimeter (double fenced) only.

Mobility from Unit: Gym, library, kitchen, religious activities center, visiting room.

Escort: Either security or nonsecurity staff may escort in groups.

D. Medium I Custody: Inmates classified to Medium I Custody typically include:

1. New inmates with long sentences about whom little is known.
2. Inmates released from Maximum, Maximum II or Close I Custody, usually being granted an increased degree of trust on a step-by-step basis.
3. Reclassified inmates (from less restrictive custody of Medium II, Minimum I, and Minimum II) who have been found unsuitable for less restrictive custody by abusing such trust.

Medium I security procedures typically include:

Work Assignments: All job sites within the main (double-fenced) perimeter, with some rare exceptions allowed for Medium I inmates to work in the single fenced perimeter.

Mobility from Unit: Gym, library, kitchen, religious activities center, visiting room, plus limited access to single-fenced perimeter.

Escort: Either security or nonsecurity staff may escort in groups.

E. Medium II Custody: Inmates classified to Medium II typically include:

1. Those who have more than three years remaining to parole or discharge, or with incidents of escape or disruptive behavior on record.
2. Reclassified inmates from minimum custody, who through misconduct or change of judicial status are no longer considered appropriate for trustee assignments and privileges.

Medium II security procedures typically include:

Work Assignment: All job sites within the main (double-fenced) perimeter, with assignments in the single-fenced perimeter being commonplace rather than rare.

Mobility from Unit and Escort: The same as Medium I, although escorts inside the main fence perimeter are not required.

F. Minimum I Custody: Inmates classified to Minimum I Custody typically include:

1. Inmates with three years or less to discharge or parole, with no incidents of disruptive or escape behavior (or confinement without such behavior for over ten years).
2. Reclassified inmates from Minimum II Custody, who through misconduct or change of judicial status are no longer considered appropriate for trustee assignments and privileges.

Minimum I security procedures typically include:

Work Assignment: 1) Unsupervised positions inside perimeter fences, or 2) directly supervised positions when outside the perimeter fences.

Mobility from Unit: All areas inside the main perimeter fences.

Escort: Required for outside perimeter fence.

G. Minimum II Custody: Inmates classified to Minimum II Custody typically include:

1. Inmates with less than two years to parole or discharge.
2. Inmates with exemplary records of dependability and trustworthiness.

Minimum II security procedures typically include:

Work Assignment: All positions, including those with least staff supervision outside the perimeter fences.

Mobility from Unit: All areas, subject to schedule and work assignments.

Escort: Required under special circumstances only.

H. Administrative Segregation Custody: Those inmates classified to Administrative Segregation Custody typically include:

1. Inmates who request to be protected from other inmates to the point of being isolated from regular program activities.
2. Inmates who have been identified by the classification committees as likely victims of assault through broad and pervasive inmate conspiracy.

Administrative Segregation security procedures typically include:

Work Assignment: In unit only.

Mobility from Unit: Visiting area, kitchen (until food service in cells is operationalized), and infirmary.

Escort: Staff escort for all movement beyond unit.

Current Classification Level of the Prison Population

Of the current population of 718 at MSP, approximately 6 percent are classified as Maximum Security, 15 percent are classified as Maximum II or Close I Custody, 40 percent are classified as Medium I or Medium II Custody and 39 percent are classified as Minimum I or Minimum II custody. According to Department of Institutions personnel, data has not been maintained that would provide an analysis of whether or not there is any trend in the custody levels.

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TO: Judy Rippingale, Legislative Fiscal Analyst

FROM: Lee Heiman, Staff Attorney

DATE: June 18, 1982

RE: Legality of Double Bunking in Prisons.

It is my opinion that (1) double bunking is not in and of itself unconstitutional; and (2) double bunking together with other factors can make incarceration unconstitutional.

Double bunking in prisons is putting two prisoners into a cell designed to accommodate one prisoner. This is usually accomplished by putting bunk-beds into the cell replacing a single bed. The standards usually promulgated for single cells suggest that each cell be in the area of 50 to 80 square feet. Thus double bunking cuts the square footage per inmate in half.

Challenges to double bunking in prisons are usually made in Federal District Courts alleging violation of the 8th Amendment to the U.S. Constitution. The 8th Amendment reads: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." The U.S. Supreme Court has interpreted the phrase "cruel and unusual punishment" "in a flexible and dynamic manner"³, meaning that it does not have a static test for cruel and unusual punishment -- instead it looks to the meaning from "the evolving standards of decency that mark the progress of a maturing society"⁴.

The leading cases on cruel and unusual punishment, involving state prisons, were actions by prisoners against prisons in Southern states, particularly Alabama⁵. The conditions that the Federal District Court discovered were appalling. That prison was described as "totally unfit for human habitation according to virtually every criterion used for evaluation by public health inspectors"⁶. The prison was overcrowded to the point that inmates slept on the floor in hallways and next to urinals; the cells were infested with roaches, flies and vermin; the sanitary facilities were usually broken and had an overpowering stench;

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200 hundred inmates were forced to use one toilet; the inmates were not provided with even necessary toilet articles; the food was insect infested, unwholesome, poorly prepared, and served without proper utensils; no meaningful vocational, recreational or work programs were provided; violence was rampant with weaker inmates repeatedly victimized by the stronger -- robbery, rape, extortion and theft and assault were everyday occurrences. Faced with facts like these in Alabama and other states, it is not surprising that Federal Courts have found that some prisons violate an inmate's right against cruel and unusual punishment.

Because of the success of these cases it was natural for prisoners in all sorts of prisons to challenge their conditions. In a sense the later challenges were an attempt to try and determine the lower limits of cruel and unusual punishment. The trend has been for Federal Courts to examine the totality of the conditions of confinement. Individual circumstances viewed separately may not appear so bad, but when the totality of the conditions is examined it may constitute unconstitutional confinement.

The latest U.S. Supreme Court case involved in 8th Amendment challenges, Rhodes v. Chapman, was solely on the issue of double bunking. The prison that was challenged, an Ohio maximum security prison, may sound familiar. It was constructed in 1972 with 1620 cells, but by 1975 it held 2,300 inmates of whom 1,400 were double bunked. The prison held 38% more prisoners than it was designed to hold. Single cells of 63 square feet were bedding two prisoners each. Although the Supreme Court stated that this condition certainly was not desirable and certainly was something that should be corrected by the executive and legislative branches of the Ohio government, the double bunking in and by itself was not cruel and unusual punishment. The Supreme Court examined the totality of the confinement and used a rule that is kind of the reverse of the former totality of the circumstances test -- the rest of the prison was nice and pleasant enough so that one bad condition was cured by the good conditions. The prison had day-rooms adjacent to cells with TV's and sitting areas that prisoners were free to use during the day; there was a large library, including a good law library; there was a good gymnasium; the food was good; the prison generally was light and airy; there was sufficient educational, vocational, recreational facilities and opportunities; and medical and dental care was sufficient. Each cell had a built-in radio, hot and cold water, a toilet, a cabinet and shelf, and a heating and air circulation vent near the ceiling. Most of the cells also had windows that inmates could open and close. Inmates, except under special circumstances, were required to be in their cells only during the hours of 9:30 p.m. to 6:30 a.m. daily.

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In suits against states that have been found to impose unconstitutional confinement Federal Courts have imposed a variety of correctional conditions ranging from shutting down a prison and levying fines against state officials to requiring corrective action within a given time. The Supreme Court stated: "Courts certainly have a responsibility to scrutinize claims of cruel and unusual confinement, and conditions in a number of prisons, especially older ones have justly been described as 'deplorable' and 'sordid'. [cites omitted] When conditions of confinement amount to cruel and unusual punishment, 'federal courts will discharge their duty to protect constitutional rights.' [cites omitted] In discharging this oversight responsibility, however, courts cannot assume that state legislatures and prison officials are insensitive to the requirements of the Consitution or to the perplexing sociological problems of how best to achieve the goals of the penal function in the criminal justice system: to punish justly, to deter future crime, and to return imprisoned persons to society with an improved change of being useful, law-abiding citizens."¹⁰

LH:hm

FOOTNOTES

¹Two of such standards are American Correctional Association, Manual of Standards for Adult Correctional Institutions, Standard No. 4142; National Crime and Delinquency Model Act for the Protection of Rights of Prisoners, §1.

²Prison standards, although helpful, are nothing more than generalized opinions of experts and they do not in and of themselves establish constitutional minimums. Bell v. Wolfish, 441 U.S. 520, at 543-544, n. 27, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979).

³Gregg v. Georgia, 428 U.S. 153, 96 S. Ct. 2909, 49 L. Ed. 2d 859 (1976).

⁴Trop v. Dulles, 356 U.S. 86, 78 S. Ct. 590, 2 L. Ed. 2d 596 (1957).

⁵Pugh v. Locke, 406 F.Supp 318 (MD Ala. 1976), aff'd as modified, 559, F.2d 283 (CA 5 1977), rev'd in part 438 U.S. 781, 98 S. Ct. 3057, 57 L. Ed. 2d 1114 (1978).

⁶Id. at 406 F. Supp. 323-324.

⁷Id. at 406 F. Supp 322-326.

⁸Rhodes v. Chapman, Infra, 101 S. Ct. at 2407 (concurring opinion by Justice Brennan.)

⁹452 U.S., Part 2 337, 101 S. Ct. 2392, 69 L.Ed. 2d 59, (1981).

¹⁰Id. at 2401-2402.

ANNUAL OPERATING COSTS--OTHER PRISON OPTIONS

The executive presented six building options for handling prisoners other than its proposal to expand community corrections and build a new 120-man close unit at Montana State Prison. Each of these options is summarized in Table 32.

The annual operating budget is shown for each option. The cost of each option is not comparable as the type and number of prisoners who can be housed vary. Also the department did not show how choosing each of these options would affect the overall correction system budget.

Table 32
Annual Operating Costs--Prison Options
Other than the Executive Proposal

<u>Option</u>	<u>Security</u>	<u>Number of Prisoners</u>	<u>Annual Operating Costs</u>	<u>Cost/ Day</u>
Old Prison	Maximum	200	\$3,547,895	\$48.60
Glasgow	Med./Min.	140	2,725,188	53.33
Stillwater	Minimum	80	1,652,427	56.59
Lakeside	Med./Min.	200	3,424,100	46.91
New Maximum	Maximum	192	3,851,637	54.96
New Medium	Medium	192	3,424,100	48.86

Cost per day ranges from \$46.91 at Lakeside to \$56.59 for the proposed medium security unit at Stillwater.

The proposed 120-inmate close unit is an expansion of the current prison. Its annual operating cost will be \$2,098,645 over the appropriated fiscal 1983 level. The Department of Institutions wants a \$1,022,453 budget increase for Montana State Prison even if the new unit is not built. Table 33 shows the additional operating costs above the executive request if the new unit is build.

Table 33
Additional Operating Costs at Montana State Prison
New 120 Inmate Close Unit
Fiscal Year 1983

FTE	53.78
Personal Services	\$1,003,092
Communications	6,600
Utilities	38,500
Repair and Maintenance	23,400
Equipment	<u>4,500</u>
Total Additional Operating Costs	\$1,076,192 =====

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